

**Hall of the House of Representatives**  
88th General Assembly - Regular Session, 2011  
**Amendment Form**

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**Subtitle of House Bill No. 2106**

AN ACT TO ESTABLISH A MEDICAID PROVIDER FEE FOR PSYCHIATRIC  
RESIDENTIAL TREATMENT FACILITIES.

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**Amendment No. 2 to House Bill No. 2106**

Amend House Bill No. 2106 as originally introduced:

Delete the title in its entirety and substitute the following:

"AN ACT TO ESTABLISH A MEDICAID PROVIDER FEE FOR RESIDENTIAL TREATMENT  
FACILITIES THROUGH THE DEPARTMENT OF HUMAN SERVICES; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute:

"AN ACT TO ESTABLISH A MEDICAID PROVIDER  
FEE FOR RESIDENTIAL TREATMENT  
FACILITIES."

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 20, Chapter 48 is amended to add an  
additional subchapter to read as follows:

Subchapter 10 – Residential Treatment Facilities Provider Fee

20-48-1001. Definitions.

As used in this subchapter:

(1)(A) “Gross receipts” means compensation paid to a provider  
for services provided through or identical to those provided through a  
Residential Treatment Facility.

(B) “Gross receipts” does not include charitable  
contributions;

(2) “Medicaid” means the medical assistance program established  
by Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., and  
administered by the Division of Medical Services of the Department of Human  
Services; and

(3) “Residential treatment facilities” means the program  
authorized by the Centers for Medicare and Medicaid Services under § 1915(c)



of the Social Security Act, 42 U.S.C. § 1396 et seq., and administered by the Department of Human Services.

20-48-1002. Provider fee.

(a)(1) There is imposed a provider fee on residential treatment facilities program services to be calculated in accordance with this section.

(2) The provider fee shall not be imposed or collected unless the Centers for Medicare and Medicaid Services approves a state plan amendment that includes the provider fee under this subchapter.

(3) The provider fee shall be an amount calculated by the Division of Medical Services of the Department of Human Services to produce a provider fee payment equal to six percent (6%) of the gross receipts received by each provider.

(b)(1)(A) The provider fee shall be payable in monthly payments.

(B) Each monthly payment shall be due and payable for the previous month by the thirtieth day of each month.

(2) The division shall seek approval from the Centers for Medicare and Medicaid Services to treat the provider fee as an allowable cost for Medicaid reimbursement purposes.

(c) A provider of services for a residential treatment facilities shall not be guaranteed, expressly or otherwise, that any additional moneys paid to the provider for services under this subchapter will equal or exceed the amount of its provider fee.

(d)(1) The division shall ensure that the rate of imposition of the provider fee established in this section equals, but does not exceed, the maximum rate of imposition established under federal law and rule for health care-related provider fees without reduction in federal financial participation in Medicaid.

(2) If the division determines that the rate of imposition of the provider fee established in this section exceeds the maximum rate of imposition that federal law and rule allow for healthcare related provider fees without reduction in federal financial participation in Medicaid, the division shall lower the rate of imposition of the provider fee to a rate that is equal to the maximum rate that federal law and rule allow for healthcare related provider fees without reduction in federal financial participation in Medicaid.

20-48-1003. Administration.

(a) The administration of this subchapter shall be exercised by the Director of the Division of Medical Services of the Department of Human Services and shall be subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b)(1) In accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the Division of Medical Services of the Department of Human Services shall promulgate rules and prescribe forms for:

(A) The proper imposition and collection of the provider fee;

(B)(i) The enforcement of this subchapter, including without limitation certification nonrenewal, letters of caution, sanctions, or fines.

(ii)(a) The fine for failure to comply with payment and reporting requirements under this subchapter shall be at least one

thousand dollars (\$1,000) but no more than one thousand five hundred dollars (\$1,500).

(b) The fine and, if applicable, the outstanding balance of the provider fee shall accrue interest at the maximum rate permitted by law from the date the fine and, if applicable, the provider fee is due until payment of the outstanding balance of the fine and, if applicable, the provider fee;

(C) The format for reporting gross receipts; and

(D) The administration of this subchapter.

(2) The rules shall not grant any exceptions to or exceptions from the provider fee.

20-48-1004. Use of funds.

(a)(1) The provider fee imposed and collected under this subchapter shall be deposited into a designated account within the Arkansas Medicaid Program Trust Fund.

(2) The designated account shall be separate and distinct from the general fund and shall be supplementary to the trust fund.

(3) The designated account moneys in the trust fund and the matching federal financial participation under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., shall be used only as follows:

(A) A minimum of fifty percent (50%) shall be used for the support and enhancement of services by residential treatment facilities; and

(B) An amount not to exceed fifty percent (50%) may be used by the Division of Medical Services of the Department of Human Services.

(b)(1) The designated account moneys in the trust fund from the provider fee imposed and collected under this subchapter that are unused at the end of a fiscal year shall be carried forward.

(2) The designated account moneys in the trust fund from the provider fee imposed and collected under this subchapter shall not be used to supplant other local, state, or federal funds.

(3) The designated account moneys in the trust fund from the provider fee imposed and collected under this subchapter are exempt from budgetary cuts, reductions, or eliminations caused by a deficiency of general revenues.

20-48-1005. Effectiveness and cessation.

The imposition of the provider fee under § 20-48-1002 shall not take effect or shall cease to be imposed if the provider fee is determined to be an impermissible tax or not eligible for federal financial participation under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq."

The Amendment was read \_\_\_\_\_

By: Representative Wardlaw  
MGF/CDS - 03/14/11 03:10  
MGF428

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Chief Clerk